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**Introduced by Senator Sher**

February 19, 2003

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An act to amend Section 116365 of the Health and Safety Code, relating to environmental health.

LEGISLATIVE COUNSEL'S DIGEST

SB 311, as introduced, Sher. Environmental health: drinking water.

Existing law requires the State Department of Health Services to adopt drinking water standards for contaminants in drinking water that are based upon specified criteria. Existing law requires the Office of Environmental Health Hazard Assessment to prepare and publish an assessment of the risks to public health posed by each contaminant for which the department proposes a primary drinking water standard. Existing law permits any person to request the office to submit the office's risk assessment to external scientific peer review prior to the assessment's publication.

This bill would, instead, permit any person to request an external scientific peer review prior to the risk assessment only if the office has not submitted the assessment to an external scientific peer review in a manner substantially equivalent to an external scientific peer review process specified in existing law.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 116365 of the Health and Safety Code  
2 is amended to read:

1 116365. (a) The department shall adopt primary drinking  
2 water standards for contaminants in drinking water that are based  
3 upon the criteria set forth in subdivision (b) and shall not be less  
4 stringent than the national primary drinking water standards  
5 adopted by the United States Environmental Protection Agency.  
6 Each primary drinking water standard adopted by the department  
7 shall be set at a level that is as close as feasible to the corresponding  
8 public health goal placing primary emphasis on the protection of  
9 public health, and that, to the extent technologically and  
10 economically feasible, meets all of the following:

11 (1) With respect to acutely toxic substances, avoids any known  
12 or anticipated adverse effects on public health with an adequate  
13 margin of safety, ~~and~~.

14 (2) With respect to carcinogens, or any substances that may  
15 cause chronic disease, avoids any significant risk to public health.

16 (b) The department shall consider all of the following criteria  
17 when it adopts a primary drinking water standard:

18 (1) The public health goal for the contaminant published by the  
19 Office of Environmental Health Hazard Assessment pursuant to  
20 subdivision (c).

21 (2) The national primary drinking water standard for the  
22 contaminant, if any, adopted by the United States Environmental  
23 Protection Agency.

24 (3) The technological and economic feasibility of compliance  
25 with the proposed primary drinking water standard. For the  
26 purposes of determining economic feasibility pursuant to this  
27 paragraph, the department shall consider the costs of compliance  
28 to public water systems, customers, and other affected parties with  
29 the proposed primary drinking water standard, including the cost  
30 per customer and aggregate cost of compliance, using best  
31 available technology.

32 (c) (1) The Office of Environmental Health Hazard  
33 Assessment shall prepare and publish an assessment of the risks to  
34 public health posed by each contaminant for which the department  
35 proposes a primary drinking water standard. The risk assessment  
36 shall be prepared using the most current principles, practices, and  
37 methods used by public health professionals who are experienced  
38 practitioners in the fields of epidemiology, risk assessment, and  
39 toxicology. The risk assessment shall contain an estimate of the  
40 level of the contaminant in drinking water that is not anticipated



1 to cause or contribute to adverse health effects, or that does not  
2 pose any significant risk to health. This level shall be known as the  
3 public health goal for the contaminant. The public health goal shall  
4 be based exclusively on public health considerations and shall be  
5 set in accordance with all of the following:

6 (A) If the contaminant is an acutely toxic substance, the public  
7 health goal shall be set at the level at which no known or  
8 anticipated adverse effects on health occur, with an adequate  
9 margin of safety.

10 (B) If the contaminant is a carcinogen or other substance that  
11 may cause chronic disease, the public health goal shall be set at the  
12 level that, based upon currently available data, does not pose any  
13 significant risk to health.

14 (C) To the extent information is available, the public health  
15 goal shall take into account each of the following factors:

16 (i) Synergistic effects resulting from exposure to, or interaction  
17 between, the contaminant and one or more other substances or  
18 contaminants.

19 (ii) Adverse health effects the contaminant has on members of  
20 subgroups that comprise a meaningful portion of the general  
21 population, including, but not limited to, infants, children,  
22 pregnant women, the elderly, individuals with a history of serious  
23 illness, or other subgroups that are identifiable as being at greater  
24 risk of adverse health effects than the general population when  
25 exposed to the contaminant in drinking water.

26 (iii) The relationship between exposure to the contaminant and  
27 increased body burden and the degree to which increased body  
28 burden levels alter physiological function or structure in a manner  
29 that may significantly increase the risk of illness.

30 (iv) The additive effect of exposure to the contaminant in  
31 media other than drinking water, including, but not limited to,  
32 exposures to the contaminant in food, and in ambient and indoor  
33 air, and the degree to which these exposures may contribute to the  
34 overall body burden of the contaminant.

35 (D) If the Office of Environmental Health Hazard Assessment  
36 finds that currently available scientific data are insufficient to  
37 determine the level of a contaminant at which no known or  
38 anticipated adverse effects on health will occur, with an adequate  
39 margin of safety, or the level that poses no significant risk to public  
40 health, the public health goal shall be set at a level that is protective

1 of public health, with an adequate margin of safety. This level shall  
2 be based exclusively on health considerations and shall, to the  
3 extent scientific data are available, take into account the factors set  
4 forth in clauses (i) to (iv), inclusive, of subparagraph (C), and shall  
5 be based on the most current principles, practices, and methods  
6 used by public health professionals who are experienced  
7 practitioners in the fields of epidemiology, risk assessment, and  
8 toxicology. However, if adequate scientific evidence demonstrates  
9 that a safe dose response threshold for a contaminant exists, then  
10 the public health goal should be set at that threshold. The  
11 department may set the public health goal at zero if necessary to  
12 satisfy the requirements of this subparagraph.

13 (2) The determination of the toxicological endpoints of a  
14 contaminant and the publication of its public health goal in a risk  
15 assessment prepared by the Office of Environmental Health  
16 Hazard Assessment are not subject to the requirements of Chapter  
17 3.5 (commencing with Section 11340) of Part 1 of Division 3 of  
18 Title 2 of the Government Code. The Office of Environmental  
19 Health Hazard Assessment and the department shall not impose  
20 any mandate on a public water system that requires the public  
21 water system to comply with a public health goal. The Legislature  
22 finds and declares that the addition of this paragraph by the act  
23 amending this section during the 1999–2000 Regular Session of  
24 the Legislature is declaratory of existing law.

25 (3) (A) Beginning July 1, 2001, the Office of Environmental  
26 Health Hazard Assessment shall, at the time it commences  
27 preparation of a risk assessment for a contaminant as required by  
28 this subdivision, electronically post on its Internet web page a  
29 notice that informs interested persons that it has initiated work on  
30 the risk assessment. The notice shall also include a brief  
31 description, or a bibliography, of the technical documents or other  
32 information the office has identified to date as relevant to the  
33 preparation of the risk assessment and inform persons who wish  
34 to submit information concerning the contaminant that is the  
35 subject of the risk assessment of the name and address of the person  
36 in the office to whom the information may be sent, the date by  
37 which the information must be received in order for the office to  
38 consider it in the preparation of the risk assessment, and that all  
39 information submitted will be made available to any member of  
40 the public who requests it. Until July 1, 2001, the Office of



1 Environmental Health Hazard Assessment shall send the notice to  
2 interested persons who request it by mail.

3 (B) Each draft risk assessment prepared by the Office of  
4 Environmental Health Hazard Assessment pursuant to this  
5 subdivision shall be made available to the public at least 45  
6 calendar days prior to the date that public comment and discussion  
7 on the risk assessment are solicited at the public workshop required  
8 by Section 57003.

9 (C) At the time the Office of Environmental Health Hazard  
10 Assessment publishes the final risk assessment for a contaminant,  
11 the office shall respond in writing to significant comments, data,  
12 studies, or other written information submitted by interested  
13 persons to the office in connection with the preparation of the risk  
14 assessment. ~~Any such~~ These comments, data, studies, or other  
15 written information submitted to the office shall be made available  
16 to any member of the public who requests it.

17 ~~(D) Any~~

18 (D) *If the Office of Environmental Health Hazard Assessment*  
19 *has not submitted its risk assessment to an external scientific peer*  
20 *review in a manner substantially equivalent to the external*  
21 *scientific peer review process set forth in Section 57004, any*  
22 *interested person may, within 15 calendar days of the date the*  
23 *public workshop on a risk assessment is completed pursuant to*  
24 *Section 57003, request the* ~~Office of Environmental Health~~  
25 ~~Hazard Assessment~~ *office to submit the risk assessment to external*  
26 *scientific peer review prior to its publication. If the office receives*  
27 *such a request, the office shall submit the risk assessment to*  
28 *external scientific peer review in a manner substantially*  
29 *equivalent to the external scientific peer review process set forth*  
30 *in Section 57004, if the person requesting the external scientific*  
31 *peer review enters into an enforceable agreement with the office*  
32 *within 15 calendar days of making the request that requires the*  
33 *person requesting the external scientific peer review to fully*  
34 *reimburse the office for all of the costs associated with conducting*  
35 *the external scientific peer review.*

36 (E) It is the intent of the Legislature that, if the Office of  
37 Environmental Health Hazard Assessment receives a request to  
38 submit a risk assessment prepared for a contaminant to which  
39 paragraph (2) of subdivision (e) applies to external scientific  
40 review, the peer review shall be conducted in a manner that does

1 not affect the schedule for publishing the public health goal for that  
2 contaminant as set forth in paragraph (2) of subdivision (e).

3 (d) Notwithstanding any other provision of this section, any  
4 maximum contaminant level in effect on August 22, 1995, may be  
5 amended by the department to make the level more stringent  
6 pursuant to this section. However, the department may only amend  
7 a maximum contaminant level to make it less stringent if the  
8 department shows clear and convincing evidence that the  
9 maximum contaminant level should be made less stringent and the  
10 amendment is made consistent with this section.

11 (e) (1) All public health goals published by the Office of  
12 Environmental Health Hazard Assessment shall be established in  
13 accordance with the requirements of subdivision (c) and shall be  
14 reviewed at least once every five years and revised, pursuant to  
15 subdivision (c), as necessary based upon the availability of new  
16 scientific data.

17 (2) On or before January 1, 1998, the Office of Environmental  
18 Health Hazard Assessment shall publish a public health goal for  
19 at least 25 drinking water contaminants for which a primary  
20 drinking water standard has been adopted by the department. The  
21 office shall publish a public health goal for 25 additional drinking  
22 water contaminants by January 1, 1999, and for all remaining  
23 drinking water contaminants for which a primary drinking water  
24 standard has been adopted by the department by no later than  
25 December 31, 2001. A public health goal shall be published by the  
26 Office of Environmental Health Hazard Assessment at the same  
27 time the department proposes the adoption of a primary drinking  
28 water standard for any newly regulated contaminant.

29 (f) The department or Office of Environmental Health Hazard  
30 Assessment may review, and adopt by reference, any information  
31 prepared by, or on behalf of, the United States Environmental  
32 Protection Agency for the purpose of adopting a national primary  
33 drinking water standard or maximum contaminant level goal when  
34 it establishes a California maximum contaminant level or  
35 publishes a public health goal.

36 (g) At least once every five years after adoption of a primary  
37 drinking water standard, the department shall review the primary  
38 drinking water standard and shall, consistent with the criteria set  
39 forth in subdivisions (a) and (b), amend any standard if any of the  
40 following occur:



1 (1) Changes in technology or treatment techniques that permit  
2 a materially greater protection of public health or attainment of the  
3 public health goal.

4 (2) New scientific evidence that indicates that the substance  
5 may present a materially different risk to public health than was  
6 previously determined.

7 (h) Not later than March 1 of every year, the department shall  
8 provide public notice of each primary drinking water standard it  
9 proposes to review in that year pursuant to this section. Thereafter,  
10 the department shall solicit and consider public comment and hold  
11 one or more public hearings regarding its proposal to either amend  
12 or maintain an existing standard. With adequate public notice, the  
13 department may review additional contaminants not covered by  
14 the March 1 notice.

15 (i) This section shall operate prospectively to govern the  
16 adoption of new or revised primary drinking water standards and  
17 does not require the repeal or readoption of primary drinking water  
18 standards in effect immediately preceding January 1, 1997.

19 (j) The department may, by regulation, require the use of a  
20 specified treatment technique in lieu of establishing a maximum  
21 contaminant level for a contaminant if the department determines  
22 that it is not economically or technologically feasible to ascertain  
23 the level of the contaminant.

